

Adopted	Rejected
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## COMMITTEE REPORT

YES:	11
NO:	0

### MR. SPEAKER:

*Your Committee on Courts and Criminal Code, to which was referred Senate Bill 518, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 protection orders.
- 4 Page 4, line 4, after "in" insert "**IC 5-2-9-6.3**".
- 5 Page 4, delete line 5.
- 6 Page 5, line 26, delete "IC 31-16-5 or".
- 7 Page 5, line 26, after "IC 31-1-11.5-8.2" insert "**or IC 31-16-5**".
- 8 Page 11, line 10, delete ", except the" and insert ";".
- 9 Page 11, delete lines 11 through 13.
- 10 Page 11, between lines 26 and 27, begin a new paragraph and insert:
- 11 "SECTION 12. IC 33-11.6-4-4 IS AMENDED TO READ AS
- 12 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. The small claims
- 13 court shall have no jurisdiction in actions seeking injunctive relief or
- 14 involving partition of real estate, or to declare or enforce any lien
- 15 thereon except as provided in section 13 of this chapter, and shall have
- 16 no jurisdiction in cases in which the appointment of a receiver is asked,

- 1 or in suits for dissolution or annulment of marriage. ~~However, the court~~
- 2 ~~has jurisdiction to hear petitions filed under IC 34-26-2 (or IC 34-4-5.1~~
- 3 ~~before its repeal).~~".
- 4 Page 11, line 28, delete "Subject to".
- 5 Page 11, line 29, delete "subsection (c), the" and insert "The".
- 6 Page 11, run in lines 28 through 29.
- 7 Page 11, line 37, delete ":".
- 8 Page 11, line 38, delete "(A)".
- 9 Page 11, line 38, strike "personal service to execute a warrant for a
- 10 protective order".
- 11 Page 11, strike lines 39 through 40.
- 12 Page 11, line 40, delete ";".
- 13 Page 11, line 41, delete "(B)".
- 14 Page 11, run in lines 37 through 41.
- 15 Page 12, line 4, delete "Subject to subsection (c), the" and insert
- 16 "The".
- 17 Page 12, line 6, delete "Subject to subsection (c), the" and insert
- 18 "The".
- 19 Page 12, delete lines 13 through 16.
- 20 Page 13, line 22, delete ":" and insert **"is living with or was living**
- 21 **with the other person."**
- 22 Page 13, delete lines 23 through 25.
- 23 Page 13, line 26, delete "or was in a social relationship of a" and
- 24 insert **"dating or was dating the other person."**
- 25 Page 13, delete lines 27 through 29, begin a new line block indented
- 26 and insert:
- 27 **"(5) A person who is having a sexual relationship with or was**
- 28 **having a sexual relationship with the other person."**
- 29 Page 13, line 30, delete "(5)" and insert **"(6)"**.
- 30 Page 13, line 31, delete "(6)" and insert **"(7)"**.
- 31 Page 13, line 32, delete "(5)" and insert **"(6)"**.
- 32 Page 13, line 33, after "order"" insert **"has the meaning set forth**
- 33 **in IC 34-6-2-48.5."**
- 34 Page 13, delete lines 34 through 39.
- 35 Page 13, line 40, delete "means an Indian:" and insert **"has the**
- 36 **meaning set forth in IC 34-6-2-66.7."**
- 37 Page 13, delete lines 41 through 42.
- 38 Page 14, delete lines 1 through 9.

- 1 Page 14, line 10, delete "means an" and insert **"has the meaning set**
- 2 **forth for "protection order" in IC 34-6-2-121.6."**
- 3 Page 14, delete lines 11 through 27.
- 4 Page 14, line 29, delete "is" and insert **"constitutes"**.
- 5 Page 14, line 30, delete "prohibited by" and insert **"a misdemeanor**
- 6 **or felony under"**.
- 7 Page 14, line 30, delete ",".
- 8 Page 14, line 32, delete "prohibited by".
- 9 Page 14, line 40, delete "is" and insert **"constitutes"**.
- 10 Page 14, line 41, delete "prohibited by".
- 11 Page 14, line 42, delete "prohibited by".
- 12 Page 16, line 1, delete "section" and insert **"chapter"**.
- 13 Page 17, line 18, delete "IC 34-26-2.5" and insert **"IC 34-13-3"**.
- 14 Page 18, line 33, after "order" insert **"qualifies as a protective**
- 15 **order under subsection (a) and"**.
- 16 Page 20, line 9, delete "or court".
- 17 Page 20, line 10, delete "order".
- 18 Page 21, line 26, delete "and without".
- 19 Page 21, line 27, delete "malice".
- 20 Page 24, line 6, delete "nonconfidential form submitted as part of
- 21 the".
- 22 Page 24, line 7, delete "under section 2(2) of this chapter".
- 23 Page 24, delete lines 9 through 11, begin a new paragraph and
- 24 insert:
- 25 **"(c) Before providing a respondent with a copy of the petition,**
- 26 **the clerk shall separate the confidential form from the petition. If**
- 27 **the petition and the confidential form are nonseverable or the**
- 28 **petition contains confidential information, the clerk shall redact all**
- 29 **parts of the petition that are confidential before delivering the**
- 30 **petition to the respondent."**
- 31 Page 26, line 4, delete "only".
- 32 Page 26, line 32, delete "it" and insert **"its"**.
- 33 Page 26, line 38, after "mutual" insert **"foreign"**.
- 34 Page 27, line 35, delete "an" and insert **"a foreign protection"**.
- 35 Page 28, line 6, after "A" insert **"certified"**.
- 36 Page 28, line 9, delete "protective" and insert **"protection"**.
- 37 Page 28, line 21, delete "provide" and insert **"return to"**.
- 38 Page 28, line 21, delete "with".

1 Page 28, line 21, after "copy" insert "**of the foreign protection**  
2 **order**".

3 Page 28, line 41, after "a" insert "**certified**".

4 Page 29, line 22, delete "an" and insert "**public**".

5 Page 29, between lines 30 and 31, begin a new paragraph and insert:

6 "SECTION 38. IC 35-38-1-7.1, AS AMENDED BY P.L.183-1999,  
7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2001]: Sec. 7.1. (a) In determining what sentence to impose  
9 for a crime, the court shall consider:

- 10 (1) the risk that the person will commit another crime;
- 11 (2) the nature and circumstances of the crime committed;
- 12 (3) the person's:
  - 13 (A) prior criminal record;
  - 14 (B) character; and
  - 15 (C) condition;
- 16 (4) whether the victim of the crime was less than twelve (12)  
17 years of age or at least sixty-five (65) years of age;
- 18 (5) **whether the person committed the offense in the presence**  
19 **or within hearing of a person who is less than eighteen (18)**  
20 **years of age who was not the victim of the offense;**
- 21 (6) whether the person violated a protective order issued against  
22 the person under IC 31-15 or IC 31-16 (or IC 31-1-11.5 before its  
23 repeal) or IC 34-26-2 (or IC 34-4-5.1 before its repeal); and  
24 ~~(6)~~ (7) any oral or written statement made by a victim of the  
25 crime.

26 (b) The court may consider the following factors as aggravating  
27 circumstances or as favoring imposing consecutive terms of  
28 imprisonment:

- 29 (1) The person has recently violated the conditions of any  
30 probation, parole, or pardon granted to the person.
- 31 (2) The person has a history of criminal or delinquent activity.
- 32 (3) The person is in need of correctional or rehabilitative  
33 treatment that can best be provided by commitment of the person  
34 to a penal facility.
- 35 (4) Imposition of a reduced sentence or suspension of the  
36 sentence and imposition of probation would depreciate the  
37 seriousness of the crime.
- 38 (5) The victim of the crime was less than twelve (12) years of age

- 1 or at least sixty-five (65) years of age.
- 2 (6) The victim of the crime was mentally or physically infirm.
- 3 (7) The person committed a forcible felony while wearing a
- 4 garment designed to resist the penetration of a bullet.
- 5 (8) The person committed a sex crime listed in subsection (e) and:
- 6 (A) the crime created an epidemiologically demonstrated risk
- 7 of transmission of the human immunodeficiency virus (HIV)
- 8 and involved the sex organ of one (1) person and the mouth,
- 9 anus, or sex organ of another person;
- 10 (B) the person had knowledge that the person was a carrier of
- 11 HIV; and
- 12 (C) the person had received risk counseling as described in
- 13 subsection (g).
- 14 (9) The person committed an offense related to controlled
- 15 substances listed in subsection (f) if:
- 16 (A) the offense involved:
- 17 (i) the delivery by any person to another person; or
- 18 (ii) the use by any person on another person;
- 19 of a contaminated sharp (as defined in IC 16-41-16-2) or other
- 20 paraphernalia that creates an epidemiologically demonstrated
- 21 risk of transmission of HIV by involving percutaneous contact;
- 22 (B) the person had knowledge that the person was a carrier of
- 23 the human immunodeficiency virus (HIV); and
- 24 (C) the person had received risk counseling as described in
- 25 subsection (g).
- 26 (10) The person committed the offense in an area of a
- 27 consolidated or second class city that is designated as a public
- 28 safety improvement area by the Indiana criminal justice institute
- 29 under IC 36-8-19.5.
- 30 (11) The injury to or death of the victim of the crime was the
- 31 result of shaken baby syndrome (as defined in IC 16-41-40-2).
- 32 (12) Before the commission of the crime, the person administered
- 33 to the victim of the crime, without the victim's knowledge, a
- 34 sedating drug or a drug that had a hypnotic effect on the victim,
- 35 or the person had knowledge that such a drug had been
- 36 administered to the victim without the victim's knowledge.
- 37 (13) The person:
- 38 (A) committed trafficking with an inmate under IC 35-44-3-9;

1 and

2 (B) is an employee of the penal facility.

3 **(14) The person committed the offense in the presence or**  
4 **within hearing of a person who is less than eighteen (18) years**  
5 **of age who was not the victim of the offense.**

6 (c) The court may consider the following factors as mitigating  
7 circumstances or as favoring suspending the sentence and imposing  
8 probation:

9 (1) The crime neither caused nor threatened serious harm to  
10 persons or property, or the person did not contemplate that it  
11 would do so.

12 (2) The crime was the result of circumstances unlikely to recur.

13 (3) The victim of the crime induced or facilitated the offense.

14 (4) There are substantial grounds tending to excuse or justify the  
15 crime, though failing to establish a defense.

16 (5) The person acted under strong provocation.

17 (6) The person has no history of delinquency or criminal activity,  
18 or the person has led a law-abiding life for a substantial period  
19 before commission of the crime.

20 (7) The person is likely to respond affirmatively to probation or  
21 short term imprisonment.

22 (8) The character and attitudes of the person indicate that the  
23 person is unlikely to commit another crime.

24 (9) The person has made or will make restitution to the victim of  
25 the crime for the injury, damage, or loss sustained.

26 (10) Imprisonment of the person will result in undue hardship to  
27 the person or the dependents of the person.

28 (11) The person was convicted of a crime involving the use of  
29 force against a person who had repeatedly inflicted physical or  
30 sexual abuse upon the convicted person and evidence shows that  
31 the convicted person suffered from the effects of battery as a  
32 result of the past course of conduct of the individual who is the  
33 victim of the crime for which the person was convicted.

34 (d) The criteria listed in subsections (b) and (c) do not limit the  
35 matters that the court may consider in determining the sentence.

36 (e) For the purposes of this article, the following crimes are  
37 considered sex crimes:

38 (1) Rape (IC 35-42-4-1).

- 1 (2) Criminal deviate conduct (IC 35-42-4-2).
- 2 (3) Child molesting (IC 35-42-4-3).
- 3 (4) Child seduction (IC 35-42-4-7).
- 4 (5) Prostitution (IC 35-45-4-2).
- 5 (6) Patronizing a prostitute (IC 35-45-4-3).
- 6 (7) Incest (IC 35-46-1-3).
- 7 (8) Sexual misconduct with a minor under IC 35-42-4-9(a).
- 8 (f) For the purposes of this article, the following crimes are
- 9 considered offenses related to controlled substances:
- 10 (1) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).
- 11 (2) Dealing in a schedule I, II, or III controlled substance
- 12 (IC 35-48-4-2).
- 13 (3) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
- 14 (4) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 15 (5) Possession of cocaine or a narcotic drug (IC 35-48-4-6).
- 16 (6) Possession of a controlled substance (IC 35-48-4-7).
- 17 (7) Dealing in paraphernalia (IC 35-48-4-8.5).
- 18 (8) Possession of paraphernalia (IC 35-48-4-8.3).
- 19 (9) Offenses relating to registration (IC 35-48-4-14).
- 20 (g) For the purposes of this section, a person received risk
- 21 counseling if the person had been:
- 22 (1) notified in person or in writing that tests have confirmed the
- 23 presence of antibodies to the human immunodeficiency virus
- 24 (HIV) in the person's blood; and
- 25 (2) warned of the behavior that can transmit HIV."
- 26 Page 29, line 32, delete "UPON PASSAGE]" and insert "JULY 1,
- 27 2001]".
- 28 Page 30, line 14, delete "An" and insert "**The person's stalking of**
- 29 **another person violates an**".
- 30 Page 30, line 19, delete "An" and insert "**The person's stalking of**
- 31 **another person violates an**".
- 32 Page 30, line 23, delete "A" and insert "**The person's stalking of**
- 33 **another person violates a**".
- 34 Page 30, line 25, delete "An" and insert "**The person's stalking of**
- 35 **another person violates an**".
- 36 Page 30, line 28, delete "An" and insert "**The person's stalking of**
- 37 **another person violates an**".
- 38 Page 31, line 22, delete "UPON PASSAGE]" and insert "JULY 1,

- 1 2001]".
- 2 Page 33, line 20, delete "may" and insert "**shall**".
- 3 Page 33, between lines 22 and 23, begin a new paragraph and insert:
- 4 "SECTION 41. IC 33-26-2-15 IS REPEALED [EFFECTIVE JULY
- 5 1, 2001]".
- 6 Page 33, line 24, delete "IC 34-6-2.5" and insert "**IC 34-26-2.5**".
- 7 Page 33, line 35, delete "IC 5-2-9-7,".
- 8 Page 33, delete lines 36 through 38.
- 9 Page 33, line 39, delete "(b)".
- 10 Page 33, run in lines 35 through 39.
- 11 Page 33, line 40, delete ", IC 33-11.6-4-15,".
- 12 Page 33, line 42, delete "(c)" and insert "**(b)**".
- 13 Page 34, line 3, delete "(d)" and insert "**(c)**".
- 14 Page 34, delete lines 6 through 18, begin a new paragraph and
- 15 insert:
- 16 "SECTION 45. [EFFECTIVE UPON PASSAGE] **The division of**
- 17 **state court administration shall:**
- 18 **(1) prescribe or approve any forms or form changes needed**
- 19 **to implement IC 33-19-4.5, as added by this act;**
- 20 **(2) prescribe or approve any forms or form changes needed**
- 21 **to implement IC 34-26-2-11; and**
- 22 **(3) make the forms or make information concerning the**
- 23 **format available to county clerks;**
- 24 **before July 1, 2001. Forms prescribed or approved under**
- 25 **subdivision (2) must be designed with a format that allows for the**
- 26 **easy separation of confidential information concerning the**
- 27 **petitioner from information that a respondent needs to prepare a**
- 28 **defense to the allegations raised by the petition."**
- 29 Renumber all SECTIONS consecutively.
- (Reference is to SB 518 as reprinted March 6, 2001.)

**and when so amended that said bill do pass.**

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Representative Dvorak